

REMARKS

This responds to the Office Action mailed on June 28, 2005.

Claims 1, 8, and 15 are amended; as a result, claims 1-20 are now pending in this application.

At the outset Applicant would like to state that the finality of the prior action was inappropriate and Applicant believes that the Examiner perhaps inadvertently and mistakenly checked a wrong box and did not intend to make the action final.

There are several reasons why Applicant believes that the Examiner may have mistakenly indicated that the action was final and in fact did not intend this to be the case. First, the Examiner indicates in the first paragraph of the Office Action that the Applicant filed an RCE, which was proper and that the claim amendments were entered. No mention at all was made that the Office Action was to be maintained as a final in this first paragraph. Similarly, in the last paragraph of the Office Action the Examiner neglected to state the action is Final as is typically and always the case with Final actions. For these reasons it very clearly appears that the Examiner did not in fact mean to make this action Final.

Secondly, even assuming the Examiner maintains that the action was not a mistake and was in fact intended to be Final, the finality of the action was not appropriate based on the current rules of the Patent Office. More specifically, the Examiner's attention is directed to MPEP 706.07(h) VIII, where it is stated that form paragraph 7.42.09 should be used if it is appropriate to make a first action final after the filing of an RCE. The Examiner did not use this form paragraph. Moreover, this particular MPEP section states that a final after an RCE is only appropriate if it conforms to MPEP 706.07(b).

MPEP 706.07(b) states it is inappropriate to issue a first action final if subject matter not included in the claims were added via amendment. Here, Applicant has added the subject matter, namely that each cell of the table represents a different aspect of the table. The fact that this is new matter is implicitly acknowledged by the Examiner, because the Examiner is relying on what would be known by one of ordinary skill in the art in combination with Rao and Chatterjee

to reject the newly amended claims and has added new rationale to address the new amendments. This is an implicit admission that new matter was added because the Examiner relied on something outside of Chatterjee (namely what was generally known in the art) and has added new rationale. In other words, the Examiner is not relying solely on the art of record by using additional art related to what is known in the industry or at least alleged to be known and the Examiner has changed rationales or augmented the rationale to address the new amendments. Furthermore, MPEP 706.07(b) also requires that a form paragraph be used to identify a first action final, and this was not used.

Therefore, Applicant believes the Examiner inadvertently checked the wrong box on the Action and that this was not intended to be a first action final. However, if it were intended to be a final then the Applicant asserts it was not appropriate because the proper procedure was not used and because new matter was added to the claims and the Examiner used new rationale and arguably art to reject the new matter. In other words, the Examiner did not simply rely on the art and arguments of record. Therefore, the Final action was either a mistake or was incorrectly asserted and should be withdrawn.

§103 Rejection of the Claims

Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rao et al. (U.S. Patent No. 5,883,635) in view of Chatterjee et al. (U.S. Patent No. 6,584,476). To sustain an obviousness rejection each and every element in the rejected claims must be taught or suggested in the proposed combination of references.

First, the Examiner's argument that the claims as drafted to conceivably extend to multiple and different versions has now been addressed in the amended claims, because the independent claims now positively recite that the cells represents different aspects of a same version of the generic table. Therefore, theses arguments are no longer sustainable.

Second, Applicant would like to point out that Chatterjee is directed to versioning of a data base. Chatterjee does not render tables; Chatterjee maintains metadata about a table. The metadata is synchronization fields, which are clearly related to versioning, and can be clearly

evidenced in the discussions of Chatterjee and in FIG. 2, where the synchronization field is headed under the “version management fields,” which are associated with a database.

Chatterjee, FIG. 2. It is mere happenstance and form that Chatterjee chose to use the word “synchronization field” when that term was clearly in substance related to versioning. Applicant respectfully asserts that any reasonable and ordinary person within the art would have read Chatterjee and read that term to mean versioning and not synchronization.

Therefore, pursuant to the very recent Federal Circuit ruling in *Phillips v. AWH Corporation*, 415 F.3d 1303 (Fed Cir. 2005) (*en banc*), Applicant asserts the Examiner’s expansive interpretation of the term synchronization from the Chatterjee reference, which is outside the scope of how that term was used within Chatterjee is inappropriate and does not comport with the existing view of the Federal Circuit.

Finally, Applicant’s amended claims now make clear that the synchronization markers are used to determine a processing order for rendering or producing a grid or a table. The order is defined by a sequential order defined within a range of values for the synchronization markers. It is now clear that this limitation details a synchronization marker related to processing order to produce a single and same table or grid. The expansive and interpretation of “synchronization field” outside how that terms was defined and used within Chatterjee is now a moot point in view of the amendments, because now Applicant’s “synchronization marker” is clearly limited to a processing order for rendering a single table that is defined by an order associated with the range of values for the synchronization markers. In other words, the synchronization marker is a processing order marker and this is not what was taught or even remotely suggested in Chatterjee.

Therefore, Applicant respectfully request that the rejections be withdrawn and the claims allowed.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (513) 942-0224 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 28 day of September, 2005.

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